

11.4.1 Origination of Application**A. Zoning and/or Form District Map Amendments**

Property owners, legislative bodies with jurisdiction and the Planning Commission may initiate zoning and/ or form district map amendments. All proposals for zoning and/or form district map amendments shall be referred to the Planning Commission for review and recommendation prior to legislative action on the proposed amendment.

B. Zoning and/or Form District Map Amendments not Associated with Specific Development Proposals

Legislative bodies with jurisdiction and the Planning Commission may initiate zoning and/ or form district map amendments not associated with a specific development proposal. Such amendments shall, in cases where the applicant has no ownership interest in the subject property, be exempt from the development plan and binding element requirements of this Part. Notice for hearings to consider zoning or form district map amendments not associated with specific development proposals shall be given in accordance with KRS100.

NOTE: Section B addresses what is commonly known as the area-wide rezoning process. Other parties who want to change zoning or form districts under the provisions of section B should work through Division staff and/or their legislative body representative.

11.4.2 Pre-Application

Prior to formal application for Zoning District Map Amendments or Form District Map Amendments the applicant or applicant's agent shall file a plan and supporting materials with the Planning Director. The materials to be submitted shall be determined by the Planning Director. The Planning Director shall review the materials submitted and provide the applicant with a report addressing, as appropriate, the following issues:

A. Comprehensive Plan Compliance**B. Zoning and Form District and Subdivision Regulation impacts****C. Site characteristics that may have a significant impact on the proposed development**

No formal pre-application conference is required unless specifically requested by the applicant or Planning Director.

NOTE: Pre-application required but conference is optional.

11.4.3 Neighborhood Meeting Requirement

Prior to filing a change in zoning request and after the pre-application conference (if one was conducted) a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than 10 days prior to the neighborhood meeting. The letter shall be sent to:

- 1st and 2nd tier property owners,
- neighborhood groups who have registered with PDS to receive notice of development actions,
- 2nd through 6th class city if the development is located within such a municipality,
- Metro Council district representative; and

- PDS staff.

The neighborhood meeting shall be held no less than seven (7) days and no more than 90 days prior to the filing of an application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

11.4.4 Application

Submission Requirements

Applications for Zoning or Form District Map Amendments shall be signed by the property owner or his/her agent and filed with the Planning Director in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Zoning or Form District Map Amendments:

- A. A "Demonstration of Appropriateness" document which addresses as applicable:
 1. One of the following;
 - a. How the proposed amendment conforms to the Comprehensive Plan; or,
 - b. Why the existing zoning or form district classification is not appropriate and the proposed zoning or form district is appropriate; or,
 - c. What major changes of an economic, physical, or social nature, not anticipated by the Comprehensive Plan, have occurred in the vicinity of the proposed change substantially altering the basic character of the area; and,
 2. How utilities and essential public services will be provided to the property in question; and,
 3. The anticipated time period in which implementation of the proposed uses will be initiated provided the amendment is approved
- B. A development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed development and the potential impacts of the development on the community and its environs. In instances where a general development plan is submitted, the Planning Commission may require submission of a detailed development plan prior to issuance of site disturbance and building permits. In certain instances, a preliminary subdivision plan will satisfy the requirements for a general or detailed development plan. These circumstances are identified in Part 2 of this Chapter. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.

- C. Technical studies or reports required by this Land Development Code including but not limited to air quality, traffic, historic and cultural resource, geologic, hydrologic, and hydro-geologic.
- D. Upon receipt of a complete application, as determined by the Planning Director, staff of Planning and Design Services shall cause notice of the application to be given. Not less than ten (10) calendar days prior to initial consideration of an application by either the Commission or a Committee thereof, notice of the application shall be given to first and second tier adjoining property owners. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.

11.4.5 Public Hearing

- A. Hearing Required – The Planning Commission shall hold at least one public hearing on each application for a Zoning or Form District Map Amendment. Notice of the hearing shall be given as specified in KRS100. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
- B. Submission of Materials – No less than fourteen (14) calendar days prior to an original or continued hearing date set by the Commission, the applicant shall submit original or revised development plans, traffic and air quality, market studies, proposed binding elements, noise studies, lighting studies, geotechnical or other environmental studies, and any other studies or reports prepared by an expert and the findings of which the applicant intends to present at the which have been prepared in response to comments received during the review process. Failure to submit these items within the required time frame shall be considered grounds for postponing the hearing or deferring action on the proposal. The applicant shall be responsible for the cost of additional notice resulting from failure to submit items within the required time frame. This section does not preclude the applicant from presenting, at the hearing, changes to the plan in response to concerns of the neighbors or Commission. Other interested parties (including but not limited to neighborhood organizations, adjoining property owners, etc.) submitting studies or reports prepared by an expert and proposed binding elements for review by the applicant and Planning Commission shall submit these materials no less than fourteen (14) calendar days prior to an original or continued hearing date set by the Commission.
- C. Hearings shall follow the procedures established in the Planning Commission By-Laws and Procedures.
- D. Following the public hearing, the Planning Commission shall make a recommendation regarding the appropriateness of the Zoning District or Form District Map Amendment to the legislative body with zoning authority over the property in question. In addition, the Planning Commission shall by separate vote, approve, reject or defer action on the development plan submitted and considered in conjunction with the proposed Zoning or Form District Map Amendment..

11.4.6 Legislative Action

- A. The legislative body having zoning authority over the property in question shall make a determination regarding the proposed Zoning or Form District Map amendment.
- B. Additional Requirements by Legislative Body – The legislative body, at its discretion, may include additional binding elements on the development plan that the legislative body deems appropriate for the welfare of the public. If the legislative body requires development plan or binding element changes, the applicant shall submit to the Planning Director a development plan showing the changes required by the legislative body within 14 days of final action by the legislative body. No permits shall be requested for any land disturbing activity until such plan is submitted .
- C. The legislative body shall notify the Planning Commission of its action relative to the Zoning or Form District Map amendment; associated binding elements; and, the accompanying development plan.

11.4.7 Plan Certain Development

- A. Designation of Binding Elements

The Planning Commission or Legislative Body with zoning authority shall designate, at the time of approval or amendment of any development plan, those elements, provisions and restrictions of the approved plan, including a time period for development plan expiration, that shall be an integral and permanent part of the development plan and thereby binding on the use and development of the subject property. Binding elements approved as part of any development plan shall be applicable to all development plans subsequently prepared for a subject property, and shall be binding upon the future use and development of said property unless specifically waived by the Planning Commission.
- B. Agreement to Binding Elements

The filing of an application for any Zoning or Form District Map amendment, except those filed under the provisions of Section 11.4.1B, shall constitute an agreement by the owner and applicant, their heirs, successors and assigns that if the Zoning or Form District Map amendment is enacted by the legislative body having zoning authority over the property in question, development and building permits for improvement of any such property shall be issued only when in conformance with the binding elements and a development plan conforming to those regulations adopted by the Planning Commission or legislative body for said property. A subsequent Zoning or Form District Map amendment enacted pursuant to an application which is exempt from the requirement of this section shall not invalidate any such agreement.
- C. Binding Elements Run with the Land

The binding elements of a general or detailed development plan granted approval by the Planning Commission shall run with the land and be binding on the owner and applicant, their successors, heirs, or assigns, unless other wise amended or released by the Planning Commission in accordance with its By-laws, Policies and Procedures.
- D. Enforcement of Binding Elements

Building permits for improvement of any property subject to binding elements shall be issued only in conformance with the binding elements of a district development plan conforming to these regulations and approved by the Planning Commission. Binding elements shall be strictly complied with and shall be enforceable in accordance with KRS100, local ordinances and Planning Commission Policy.

E. Amendments to Binding Elements and Revised District Development Plans

1. Review Procedure

Amendment to any binding element of an approved development plan, including any development plan expiration date, shall require Planning Commission approval. Review of amendments to binding elements shall follow Category 3 Review Procedures (Section 11.6.6), except notice also shall be given to those who spoke at a Planning Commission public hearing.

2. Scope of Planning Commission Review

The Planning Commission shall consider, but not be limited to, the following factors in review of a request to amend a binding element:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;
- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;
- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;
- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

3. Delegation to Planning Director

Unless otherwise specified in these regulations or at the time of binding element adoption, the Planning Director may approve modifications to binding elements relating to changes in building design and layout and site design and layout so long as such changes are in conformance with the design requirements of this code. In addition, the Planning Director may approved changes in binding elements related to increase or reduction of square footage

of the development so long as the increase does not exceed 25% or meet or exceed the threshold established in the applicable Form District regulation for completing the Community Design Review process.

In cases in which the Planning Director has reason to question whether the request to amend the binding element complies with any of the items in Section 11.4.6E2 above or any other provision of the Land Development Code, the Planning Director may forward the request to the Planning Commission, or committee thereof, for review and action.

F. Detailed District Development Plans

1. Review Procedure

Detailed district development plan review shall require Planning Commission approval. Review of detailed district development plans shall require notice to adjoining property owners, notice to those registered on Neighborhood Notice List and notice to those who spoke at Planning Commission public hearing. Notice shall be given at least 10 calendar days prior to review of the development plan by the Planning Commission or committee thereof.

2. Scope of Planning Commission Review

The Planning Commission shall consider, but not be limited to, the following factors in review of a detailed district development plan:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic site;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
- c. The provisions of sufficient open space (scenic and recreational) to meet the needs of the proposed development
- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;
- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;
- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.